



[7590-01-P]

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 50 and 52

[Docket No. PRM-50-117; NRC-2019-0063]

Criteria to Return Retired Nuclear Power Reactors to Operations

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of docketing and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received a petition for rulemaking from Mr. George Berka (the petitioner), dated December 26, 2018, requesting that the NRC amend its regulations to establish criteria to return retired nuclear power reactors to operations. The petition was docketed by the NRC on February 19, 2019 and has been assigned Docket No. PRM-50-117. The NRC is examining the merits of the issues raised in PRM-50-117 to determine whether the issues should be considered in rulemaking. The NRC is requesting public comment on this petition at this time.

DATES: Submit comments by **[INSERT DATE 75 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*]**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

ADDRESSES: You may submit comments by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0063. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; e-mail: Carol.Gallagher@nrc.gov. For technical

questions contact the individual listed in the FOR FURTHER INFORMATION CONTACT section of this document.

- **E-mail comments to:** Rulemaking.Comments@nrc.gov. If you do not receive an automatic e-mail reply confirming receipt, then contact us at 301-415-1677.
- **Fax comments to:** Secretary, U.S. Nuclear Regulatory Commission at 301-415-1101.
- **Mail comments to:** Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, ATTN: Rulemakings and Adjudications Staff.
- **Hand deliver comments to:** 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301-415-1677.

For additional direction on obtaining information and submitting comments, see “Obtaining Information and Submitting Comments” in the SUPPLEMENTARY INFORMATION section of this document.

FOR FURTHER INFORMATION CONTACT: Ilka Berrios, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-2404, e-mail: Ilka.Berrios@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2019-0063 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- **Federal Rulemaking Web Site:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2019-0063.

- **NRC's Agencywide Documents Access and Management System**

(ADAMS): You may obtain publicly-available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-415-4737, or by e-mail to pdr.resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- **NRC's PDR:** You may examine and purchase copies of public documents at the NRC's PDR, Room O1-F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC-2019-0063 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at <https://www.regulations.gov> as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. The Petitioner and Petition

The petition for rulemaking (PRM) was filed by George Berka, a private citizen. The petitioner is requesting that the NRC revise part 52 of title 10 of the *Code of Federal Regulations* (10 CFR) to establish criteria that would allow retired nuclear power reactors return to operation after the licensee has permanently ceased operations and permanently removed fuel from the reactor vessel, or when a final legally effective order to permanently cease operations has come into effect. In sum, the petitioner requests “a fair, reasonable, and unobstructed opportunity to return a retired facility to full operational status, even if the operating license for the facility had previously been surrendered.” The petitioner requests that the facility “only have to meet the safety the standards that had been in place at the time the facility had last operated, and not the latest license standards.” The petition may be found in ADAMS under Accession No. ML19050A507.

III. Discussion of the Petition

The petitioner requests that the NRC revise its regulations in 10 CFR part 52 to establish criteria to allow a retired nuclear power reactor to return to operations without meeting the latest safety standards, but rather those standards in place at the time the facility had last operated. The petitioner requests that a nuclear power reactor be allowed to return to operational status if “the facility had been in an operational condition at the time of retirement, had last operated no more than twenty-one (21) calendar years prior to the date of retirement,” the facility “remains intact,” and the facility passes a

“general safety inspection.” Alternatively, if the nuclear power reactor “had not been in an operational condition at the time of retirement, had last operated more than twenty-one (21) calendar years prior to the retirement date, is not intact, and/or has had significant decommissioning and/or dismantling activities commence,” then the nuclear power reactor must be repaired or rebuilt “to the safety in standards that had been in place at the time the facility had last operated,” and pass a safety inspection “appropriate to the degree of repairs or reconstruction that had been performed,” which would be, “[a]t the very least...a general safety inspection.”

The petitioner states that this proposal would be “‘pennies on the dollar,’ compared to building new nuclear, or trying to replace the same capacity with wind or solar sources.” The petitioner also states that through this proposal, “several gigawatts of ultra-clean, and very low-carbon, electrical generating capacity could be restored to the electrical grid, which would help to reduce carbon dioxide levels in the atmosphere.” The petitioner provides a calculation comparing the cost and time of the proposal to the cost and time required for replacing similar electrical generating capacity with renewables or new nuclear builds. The petitioner references the Clean Air Act, 42 U.S.C. 7401 et seq., and the National Environmental Policy Act, 42 U.S.C. 4321 et seq., to support the petitioner’s climate change statements regarding reducing carbon dioxide emissions.

IV. Conclusion

The NRC has determined that the petition meets the threshold sufficiency requirements for docketing a petition for rulemaking under 10 CFR 2.803. The NRC is examining the merits of the issues raised in PRM-50-117 to determine whether these issues should be considered in rulemaking.

Dated at Rockville, Maryland, this 23rd day of July, 2019.
For the Nuclear Regulatory Commission.

Richard J. Laufer,

Acting Secretary of the Commission.

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